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**PRELIMINARY DRAFT**  
**No. 3252**

**PREPARED BY**  
**LEGISLATIVE SERVICES AGENCY**  
**2009 GENERAL ASSEMBLY**

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**DIGEST**

**Citations Affected:** IC 27-8-11-10; IC 27-13-1-11.5; IC 27-13-15-5.

**Synopsis:** Coverage for dialysis treatment. Specifies requirements related to payment for dialysis treatment, including coverage, billing and payments for dialysis treatment, networks of dialysis facilities, and filings.

**Effective:** Upon passage.



A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 27-8-11-10, AS ADDED BY P.L.111-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As used in this section, "dialysis facility" means an outpatient facility in Indiana at which a ~~dialysis treatment~~ provider provides dialysis treatment.

(b) As used in this section, "contracted dialysis facility" means a dialysis facility that has entered into an agreement with a particular insurer under section 3 of this chapter.

(c) Notwithstanding section 1 of this chapter, as used in this section, "insured" refers only to an insured who requires dialysis treatment.

(d) As used in this section, "insurer" includes the following:

(1) An administrator licensed under IC 27-1-25.

(2) An agent of an insurer.

(e) As used in this section, "non-contracted dialysis facility" means a dialysis facility that has not entered into an agreement with a particular insurer under section 3 of this chapter.

(f) An insurer shall not require an insured, as a condition of coverage or reimbursement, to:

(1) if the nearest dialysis facility is located within thirty (30) miles of the insured's home, travel more than thirty (30) miles from the insured's home to obtain dialysis treatment; or

(2) if the nearest dialysis facility is located more than thirty (30) miles from the insured's home, travel a greater distance than the distance to the nearest dialysis facility to obtain dialysis treatment;

regardless of whether the insured chooses to receive dialysis treatment at a contracted dialysis facility or a non-contracted dialysis facility.

**(g) An insurer shall not do any of the following:**

**(1) Require an insured to change the insured's established dialysis facility as a condition of coverage.**

**(2) Make changes in coverage under a policy of accident and**



sickness insurance in an attempt to cause an insured to elect Medicare as the insured's primary coverage.

(3) Interfere with a physician's treatment of an insured.

(h) An insurer shall do the following:

(1) Upon request of the insured, make all claim payments for dialysis treatment payable only to the dialysis facility and not to the insured, regardless of whether the dialysis facility is a contracted dialysis facility or a non-contracted dialysis facility.

(2) File with the department an annual evaluation of whether the insurer's network of dialysis facilities is sufficient to provide health care services to insureds covered under a policy issued by the insurer.

(3) File with the department an annual evaluation of whether the insurer is in compliance with this section.

(4) Before any proposed change is made to the insurer's network:

(A) file with the department an analysis of the manner in which the proposed change will affect access of insureds to dialysis treatment, quality of care, and premium rates; and

(B) demonstrate to the commissioner that the proposed change will not result in a shift of coverage from commercial health coverage to government funded coverage for insureds who will be affected by the proposed change.

(5) If the insurer makes any change with respect to a contractual relationship with or reimbursement to a dialysis facility at which an insured has received dialysis treatment during the immediately preceding thirty (30) days, the following:

(A) Provide written notice of the proposed change to the insured at least sixty (60) days before the effective date of the change.

(B) Allow the insured to continue to receive all dialysis treatment at the dialysis facility until the insured no longer requires dialysis treatment.

(C) Reimburse the dialysis facility for dialysis treatment provided to the insured as if the dialysis facility were a contracted dialysis facility.

(i) The commissioner shall, not more than thirty (30) days after receiving a filing under subsection (h)(2), approve the filing or make recommendations for changes to the network.

(j) A dialysis facility or provider shall not bill an insured for any amount that exceeds:

(1) the amount paid by the insurer; plus

(2) any applicable out-of-pocket expense paid by the insured;



in connection with dialysis treatment. An insurer that receives from an insured written proof that a dialysis facility or provider has violated this subsection shall not reimburse the dialysis facility or provider for any health care services rendered to any insured until the insurer receives written proof that the dialysis facility or provider has canceled the bill and reimbursed the insured in full any amount paid in relation to the amount billed in violation of this subsection.

(k) The department may adopt rules under IC 4-22-2 to implement this section.

SECTION 2. IC 27-13-1-11.5, AS ADDED BY P.L.111-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. "Dialysis facility" means an outpatient facility in Indiana at which a ~~dialysis treatment~~ provider provides dialysis treatment.

SECTION 3. IC 27-13-15-5, AS ADDED BY P.L.111-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Notwithstanding IC 27-13-1-12, as used in this section, "enrollee" refers only to an enrollee who requires dialysis treatment.

(b) As used in this section, "health maintenance organization" includes the following:

- (1) A limited service health maintenance organization.
- (2) An agent of a health maintenance organization or a limited service health maintenance organization.

(c) A health maintenance organization shall not require an enrollee, as a condition of coverage or reimbursement, to:

- (1) if the nearest dialysis facility is located within thirty (30) miles of the enrollee's home, travel more than thirty (30) miles from the enrollee's home to obtain dialysis treatment; or
- (2) if the nearest dialysis facility is located more than thirty (30) miles from the enrollee's home, travel a greater distance than the distance to the nearest dialysis facility to obtain dialysis treatment;

regardless of whether the enrollee chooses to receive dialysis treatment at a dialysis facility that is a participating provider or a dialysis facility that is not a participating provider.

(d) A health maintenance organization shall not do any of the following:

- (1) Require an enrollee to change the enrollee's established dialysis facility as a condition of coverage.
- (2) Make changes in coverage under an individual contract or a group contract in an attempt to cause an enrollee to elect Medicare as the enrollee's primary coverage.

(3) Interfere with a physician's treatment of an enrollee.

(e) A health maintenance organization shall do the following:



(1) Upon request of the enrollee, make all claim payments for dialysis treatment payable only to the dialysis facility and not to the enrollee, regardless of whether the dialysis facility is or is not a participating provider.

(2) File with the department an annual evaluation of whether the health maintenance organization's network of all dialysis treatment providers is sufficient to provide health care services to enrollees covered under an individual contract or a group contract entered into by the health maintenance organization.

(3) File with the department an annual evaluation of whether the health maintenance organization is in compliance with this section.

(4) Before any proposed change is made to the health maintenance organization's network:

(A) file with the department an analysis of the manner in which the proposed change will affect enrollee access to dialysis treatment, quality of care, and premium rates; and

(B) demonstrate to the commissioner that the proposed change will not result in a shift of coverage from commercial health coverage to government funded coverage for enrollees who will be affected by the proposed change.

(5) If the health maintenance organization makes any change with respect to a contractual relationship with or reimbursement to a dialysis facility at which an enrollee has received dialysis treatment during the immediately preceding thirty (30) days, the following:

(A) Provide written notice of the proposed change to the enrollee at least sixty (60) days before the effective date of the change.

(B) Allow the enrollee to continue to receive all dialysis treatment at the dialysis facility until the enrollee no longer requires dialysis treatment.

(C) Reimburse the dialysis facility for dialysis treatment provided to the enrollee as if the dialysis facility were a participating provider.

(f) The commissioner shall, not more than thirty (30) days after receiving a filing under subsection (e)(2), approve the filing or make recommendations for changes to the network.

(g) A dialysis treatment facility or provider shall not bill an enrollee for any amount that exceeds:

(1) the amount paid by the health maintenance organization; plus

(2) any applicable copayment or deductible paid by the enrollee;



1 in connection with dialysis treatment. A health maintenance  
2 organization that receives from an enrollee written proof that a  
3 dialysis facility or provider has violated this subsection shall not  
4 reimburse the dialysis facility or provider for any health care  
5 services rendered to any enrollee until the health maintenance  
6 organization receives written proof that the dialysis facility or  
7 provider has canceled the bill and reimbursed the enrollee in full  
8 any amount paid in relation to the amount billed in violation of this  
9 subsection.

10 (h) The department may adopt rules under IC 4-22-2 to  
11 implement this section.

12 SECTION 4. [EFFECTIVE UPON PASSAGE] (a) IC 27-8-11-10,  
13 as amended by this act, applies to an agreement between an insurer  
14 and a dialysis treatment provider that is entered into, amended, or  
15 renewed on or after the effective date of this act.

16 (b) IC 27-13-15-5, as amended by this act, applies to a contract  
17 between a health maintenance organization and a dialysis  
18 treatment provider that is entered into, amended, or renewed after  
19 the effective date of this act.

20 SECTION 5. An emergency is declared for this act.

